

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
NATIONAL QUALIFICATIONS
FRAMEWORK AMENDMENT
BILL**

[B 20—2018]

*(As agreed to by the Portfolio Committee on Higher Education and Training
(National Assembly))*

[B 20A—2018]

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AMENDMENTS AGREED TO

NATIONAL QUALIFICATIONS FRAMEWORK AMENDMENT BILL [B 20—2018]

LONG TITLE

1. On page 2, in line 5, after “qualifications” to insert “or part-qualifications”.
2. On page 2, in line 7, after “to” to insert “the”.

CLAUSE 1

1. On page 2, in line 11, after “registered” to insert “, established, declared or merged”.
2. On page 2, in line 14, to omit “legally” and to substitute “lawfully”.
3. On page 2, in line 16, after “is” to insert “lawfully”.
4. On page 3, in line 5, to omit “ranking” and to substitute “placement”.
5. On page 3, from line 7, to omit the definition of “foreign institution” and to substitute:

“**‘foreign institution’** means a foreign juristic person offering or issuing an authentic qualification or part-qualification;”.

6. On page 3, from line 9, to omit the definition of “fraudulent qualification or part-qualification” and to substitute:

“**‘fraudulent qualification or part-qualification’** is a verified qualification or part-qualification registered on the NQF or an evaluated foreign qualification or part-qualification, which is found to be forged, fraudulently obtained or awarded in contravention of this Act, and has been declared as such by a court of law;”.

7. On page 3, after line 14, to insert the following definition:

“(e) by the insertion after the definition of “learning” of the following definition:

‘learner achievements’ means a qualification or part-qualification contemplated by this Act;”.

8. On page 3, from line 16, to omit the definition of “misrepresented qualification or part-qualification” and to substitute:

“**‘misrepresented qualification or part-qualification’** is a qualification or part-qualification—
(a) which is not authentic; or
(b) where the certificate of award or the SAQA Certificate of Evaluation was erroneously issued or altered in any way;”.

9. On page 3, in line 30, to omit “that facilitates the management of the NQF,”.

10. On page 3, after line 31, to insert the following definition:

“(g) by the insertion after the definition of “SAQA Act” of the following definition:

‘SAQA Certificate of Evaluation’ means a certificate issued by the SAQA indicating the authenticity of the foreign qualification and its placement within the NQF;”.

11. On page 3, in line 35, to omit “Higher Education Act or”.

CLAUSE 3

1. On page 3, in line 57, after “the” to insert “relevant”.

CLAUSE 4

1. On page 4, in line 18, after “institution” to insert “or QC”.
2. On page 4, from line 45, to omit subsections (1A) and (1B) and to substitute:

“(1A) When verifying or evaluating a qualification or part-qualification in terms of this Act, the SAQA must, amongst other things, consider whether the education institution, skills development provider or foreign institution is registered by law and whether the qualification or part-qualification is authentic and complies with the policy and criteria contemplated in section 13(1)(h).

(1B) If after verification or evaluation, a qualification or part-qualification is found to be inauthentic or is found to be a misrepresented qualification or part-qualification or is declared by a court of law to be a fraudulent qualification or part qualification, the SAQA must refer such a finding or information to the relevant professional body, as may be prescribed, and subject to subsection (1C):

- (a) must inform the requester and the holder of the qualification or part-qualification of the finding;
- (b) must record such finding in the register of misrepresented qualifications and part-qualifications or fraudulent qualifications and part-qualifications; and
- (c) the requester must provide the SAQA with all particulars of the holder to enable the SAQA before recording such finding in the relevant register, to give notice and comply with section (1C).”.

3. On page 5, from line 23 to omit “; and” and to substitute “.”.
4. On page 5, from line 24 to omit paragraph (f).

CLAUSE 5

1. On page 5, in line 35, to omit “providers” and to substitute “provider”.
2. On page 5, in line 40, to omit “cost” and to substitute “charge”.
3. On page 5, in line 40, after “SAQA” to insert “and within 30 days after complying with all the requirements applicable to quality assurance relating to the qualification or part-qualification”.

CLAUSE 7

Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

Referral of a qualification or part-qualification to the SAQA for verification and evaluation

“32A. (1) (a) All organs of state, employers, education institutions, skills development providers and QCs must authenticate, prior to appointment or registration, if the qualification or part-qualification which is presented to them for the purposes of appointment, study or for any other related purpose, is registered on the national learners’ records database.

(b) If not registered on the national learners’ records database, such qualification or part-qualification must be referred to the SAQA for verification and evaluation.

(c) The Minister may in consultation with the SAQA exempt any category of persons, or entity contemplated in paragraph (a) from the provisions of this section by notice in the *Gazette*.

(2) If after verification or evaluation of the qualification or part-qualification—

(a) the SAQA establishes that the qualification or part-qualification is an authentic qualification or part-qualification, but is not on the national learners’ records database, the SAQA must record such a qualification or part-qualification on the national learners’ records database; or

(b) the SAQA must comply with section 13 (1B)(a) and (b) and shall refer such a finding or information to the relevant body.

(3) The SAQA must perform its functions in terms of subsection (1) and (2) within 30 days so as to not prejudice the holder of the qualification or part-qualification.

Offences and penalties

32B. (1) A person is guilty of an offence if the person—

- (a) makes or causes to be made a false entry in the national learners’ records database or the misrepresented or fraudulent register;
- (b) is a party to the falsification and dissemination or publication of a qualification or part-qualification of any person or the records of the national learners’ records database or the misrepresented or fraudulent register; or
- (c) with a fraudulent purpose, knowingly provided false or misleading information in any circumstances in which this Act requires the person to provide information or give notice to another person.

(2) A person, an education institution or skills development provider is guilty of an offence if a person, the education institution or skills development provider claims to be offering a qualification or part-qualification registered on the NQF whereas that qualification or part-qualification is not so registered.

(3) A person is guilty of an offence, if such a person falsely or fraudulently claims to be holding a qualification or part-qualification registered on the NQF or awarded by an education institution, skills development provider, QC or obtained from a lawfully recognised foreign institution.

(4) Any person, education institution, skills development provider, foreign institution is guilty of an offence if it falsely claims to be registered and accredited as an education institution, skills development provider or foreign institution in terms of the laws of the Republic or foreign law.

(5) If a person, education institution its directors or board, a foreign institution its agents or directors or board, or a skills development provider is convicted of any offence under this Act, the

court that imposes the sentence shall consider as an aggravating factor the fact that the offence was—

(a) committed with the intent to gain financially, or to receive any favour, benefit, reward, compensation or any other advantage; or

(b) gained financially, or received any favour, benefit, reward, compensation or any other advantage.

(6) Any person convicted of an offence in terms of this Act, is liable, in the case of a contravention of sections 32B(1), 32B(2), 32B(3) or 32B(4) to a fine or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

(7) Any person, education institution, director or a board member of an education institution, foreign institution or its agents, or skills development provider in contravention of section 32B(4) may be ordered to close its business and declared unfit to apply and register any education institution, skills development provider or become an agent of any foreign institution in the Republic offering a qualification or part-qualification on the NQF or foreign qualification or part-qualification for a period not exceeding 10 years.”.

CLAUSE 8

1. On page 7, in line 14, to omit “its” and to substitute “their”.

CLAUSE 9

1. On page 7, in line 20, to omit “9” and to substitute “9(1)”.
2. On page 7, after line 22, to insert the following:

“(2) Different dates of commencement may be so determined for different sections of the Act.”.